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1916-CV11701 - MICHAEL MOORE V LYFT, INC. ET AL (E-CASE)

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Document ID - 19-SMCC-5279; Served To - OYLER, MARK; Server - ; Served Date - 16-JUN-19; Served Time - 20:10:00; Service Type - Special Process Server; Reason Description - Served; Service Text - Beth Oyler-Mother

☐ [Notice of Service](#)

Summons Service Receipt; Electronic Filing Certificate of Service.

**Filed By:** KEVIN JOSEPH BERGER

**On Behalf Of:** MICHAEL MOORE

05/31/2019 ☐ [Notice of Service](#)

19-SMCC-5278; Electronic Filing Certificate of Service.

☐ [Corporation Served](#)

Document ID - 19-SMCC-5278; Served To - LYFT, INC.; Server - ; Served Date - 29-MAY-19; Served Time - 09:00:00; Service Type - Sheriff Department; Reason Description - Served; Service Text - CT Corporation, LCW - B. Love

05/17/2019 ☐ [Summons Issued-Circuit](#)

Document ID: 19-SMCC-5279, for OYLER, MARK.

☐ [Summons Issued-Circuit](#)

Document ID: 19-SMCC-5278, for LYFT, INC..

☐ [Order - Special Process Server](#)

05/10/2019 ☐ [Motion Special Process Server](#)

Motion for Approval and Appointment of Private Process Server; Electronic Filing Certificate of Service.

**Filed By:** KEVIN JOSEPH BERGER

**On Behalf Of:** MICHAEL MOORE

☐ [Motion Special Process Server](#)

Motion for Approval Appointment of Private Process Server; Electronic Filing Certificate of Service.

**Filed By:** KEVIN JOSEPH BERGER

04/24/2019 ☐ [Correspondence Sent](#)

Letter to attorney need MSPOS

☐ [Case Mgmt Conf Scheduled](#)

**Scheduled For:** 08/07/2019; 1:30 PM ; GEORGE EDGAR WOLF; Jackson - Kansas City

04/19/2019 ☐ [Request for Jury Trial Filed](#)

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- ☐ **Filing Info Sheet eFiling**  
**Filed By:** JANET ELLEN VOGINI
- ☐ **Note to Clerk eFiling**  
**Filed By:** JANET ELLEN VOGINI
- ☐ **[Pet Filed in Circuit Ct](#)**  
Petition for Damages.  
**On Behalf Of:** MICHAEL MOORE
- ☐ **Judge Assigned**

**IN THE 16TH CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY**

**MICHAEL MOORE**  
**1911 N.E. 55th Street**  
**Kansas City, MO 64118**

Plaintiff,

v.

**LYFT, INC.**  
**185 Berry Street, Suite 5000**  
**San Francisco, CA 94107**  
**Reg. Agent: CT Corporation System**  
**120 S. Central Avenue**  
**Clayton, MO 64105**

and

**MARK OYLER**  
**1039 Jackson Drive**  
**Liberty, MO 64068**

Defendants.

Case No.:

Division:

**PETITION**

COMES NOW, Plaintiff Michael Moore, by and through attorneys Kevin J. Berger and Janet E. Vogini of Berger & Vogini, LLC with his Petition for Damages against Defendants Lyft, Inc. and Mark Oyler and states and alleges as follows.

**Parties and Venue**

1. Plaintiff Michael Moore currently, and at all times relevant, resides at 1911 N.E. 55th Street, Kansas City, Clay County, Missouri 64118.

2. Defendant Lyft, Inc. is a California corporation, registered in Missouri in good standing and its registered agent is CT Corporation System with a mailing address of 120 S. Central Avenue, Clayton, St. Louis County, Missouri 64105.

3. Defendant Mark Oyler resides at 1039 Jackson Drive, Liberty, Clay County, Missouri 64068.

4. This cause of action arose, and the events and injuries herein alleged occurred at the intersection of Gregory Boulevard and The Paseo (now known as Dr. Martin Luther King, Jr. Boulevard) in Jackson County, Missouri.

5. This Court has jurisdiction over the parties and venue is proper pursuant to RSMo. §508.010(4).

#### **Statement of Facts**

6. All prior paragraphs are incorporated as though fully set forth herein.

7. On May 12, 2018, Mr. Moore was driving his motorcycle eastbound on Gregory Boulevard entering the southbound intersection of Martin Luther King, Jr. Boulevard (MLK Blvd.), then known as The Paseo.

8. At the same time, Defendant Oyler was driving his automobile immediately in front of Mr. Moore, and suddenly and inexplicably, braked and turned northbound - the wrong way on one-way northbound MLK, Jr. Blvd.

9. This unanticipated maneuver caused Mr. Moore to skid and then slam into the mid-passenger side of Defendant Oyler's vehicle.

10. Catapulted over Defendant Oyler's vehicle, Mr. Moore's head and left shoulder slammed onto the pavement causing severe and permanent injuries.

11. The impact of the collision shattered the passenger window and deployed the front and side airbags of Defendant Oyler's vehicle.

12. Mr. Moore was taken by ambulance to Research Hospital in Kansas City, where he underwent surgery for his injuries.

13. Defendant Oyler refused to speak to the responding KCPD police officer at the accident site.

14. Defendant Oyler was operating his vehicle in the employ of Defendant Lyft, Inc., and was actively transporting passengers at the time of the accident.

### **Count I: Vehicular Negligence**

15. All prior paragraphs are incorporated as though fully set forth herein.

16. Defendant Oyler had a duty to exercise the degree of care that a reasonably prudent person would use to avoid harm to others under circumstances similar to those described herein.

17. Mr. Moore's injuries were proximately caused by Defendant Oyler's negligent, careless and reckless disregard of said duty in the following acts and omissions:

a. That Defendant Oyler failed to keep a careful lookout for Mr. Moore's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;

b. That Defendant Oyler failed to control his speed;

c. That Defendant Oyler failed to pay attention while driving;

and,

d. That Defendant Oyler failed to obey posted traffic signs and instead, made an illegal turn, going the wrong-way on a one-way street.

18. As a direct and proximate result of the negligent acts and/or omissions of Defendant Oyler, Mr. Moore suffered severe, painful, and permanent injuries to his left shoulder, left hand, head, neck, back, right arm and right elbow. Costs associated with Mr. Moore's medical treatment of the same exceed \$108,000.

19. Mr. Moore faces continued physical pain, mental trauma, and diminished enjoyment of life, along with the development of future medical complications, as a result of Defendant Oyler's vehicular negligence. He also faces future medical costs and other damages including, but not limited to, mental anguish in the past and future, past and future lost wages, expense, and disruption of life as a result of Defendant Oyler's negligence.

### **Count II - Negligence (Liability)**

20. All prior paragraphs are incorporated as though fully set forth herein.

21. Defendant Lyft, Inc owed a duty to Mr. Moore and to other drivers on the road to ensure that its drivers, including but not limited to Defendant Oyler, were adequately trained and supervised.

22. Defendant Lyft, Inc. breached its duty to Mr. Moore because it failed to ensure that Defendant Oyler was properly trained and supervised, and was otherwise negligent in a manner not presently known to Mr. Moore.

23. The above-described negligence of Defendant Lyft, Inc directly caused the injuries to Mr. Moore.

24. At all times relevant, Defendant Oyler was an agent, servant or employee, or ostensible agent of Defendant Lyft, Inc., acting in the course and scope of his employment or other business relationship with Defendant Lyft, Inc. As a matter of law, the negligent acts and/or omissions of Defendant Oyler are attributed to Defendant Lyft, Inc., and Defendant Lyft, Inc. is therefore, vicariously liable for all such negligent acts and/or omissions.

WHEREFORE, Plaintiff Michael Moore prays for judgment against Defendants Mark Oyler and Lyft, Inc. in an amount in excess of \$350,000; for the costs he incurs in this litigation, and for such other or further relief as may be just and proper in the circumstances.

### Demand for Jury Trial

*Plaintiff Michael Moore hereby requests a trial by jury on all issues triable of right by a jury of the above-captioned action and that the case be calendared accordingly.*

Respectfully submitted,

**Berger & Vogini, LLC**

Date: April 19, 2019



Kevin J. Berger - MO Bar 38957

Janet E. Vogini - MO Bar 63546

8025-B Ward Parkway Plaza

Kansas City, MO 64114

T: 816.600.3220

E: kevin@kcbvlaw.com

E: janet@kcbvlaw.com

*Attorneys for Plaintiff*

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY**

**MICHAEL MOORE,**

**PLAINTIFF(S),**

**CASE NO. 1916-CV11701  
DIVISION 11**

**VS.**

**LYFT, INC.,**

**DEFENDANT(S).**

**NOTICE OF CASE MANAGEMENT CONFERENCE FOR CIVIL CASE  
AND ORDER FOR MEDIATION**

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NOTICE IS HEREBY GIVEN that a Case Management Conference will be held with the Honorable **GEORGE EDGAR WOLF** on **07-AUG-2019** in **DIVISION 11** at **01:30 PM**. All Applications for Continuance of a Case Management Conference should be filed on or before Wednesday of the week prior to the case management setting. Applications for Continuance of a Case Management Conference shall comply with Supreme Court Rule and 16<sup>th</sup> Cir. R. 34.1. Continuance of a Case Management Conference will only be granted for good cause shown because it is the desire of the Court to meet with counsel and parties in all cases within the first 4 months that a case has been on file. All counsel and parties are directed to check Case.NET on the 16<sup>th</sup> Judicial Circuit web site at [www.16thcircuit.org](http://www.16thcircuit.org) after filing an application for continuance to determine whether or not it has been granted.

A lead attorney of record must be designated for each party as required by Local Rule 3.5.1. A separate pleading designating the lead attorney of record shall be filed by each party as described in Local Rule 3.5.2. The parties are advised that if they do not file a separate pleading designating lead counsel, even in situations where there is only one attorney representing the party, JIS will not be updated by civil records department, and copies of orders will be sent to the address currently shown in JIS. Civil Records does not update attorney information from answers or other pleadings. The Designation of Lead Attorney pleading shall contain the name of lead counsel, firm name, mailing address, phone number, FAX number and E-mail address of the attorney who is lead counsel.

At the Case Management Conference, counsel should be prepared to address at least the following:

- a. A trial setting;
- b. Expert Witness Disclosure Cutoff Date;
- c. A schedule for the orderly preparation of the case for trial;
- d. Any issues which require input or action by the Court;
- e. The status of settlement negotiations.



### **MEDIATION**

The parties are ordered to participate in mediation pursuant to Supreme Court Rule 17. Mediation shall be completed within 10 months after the date the case is filed for complex cases, and 6 months after the date the case is filed for other circuit cases, unless otherwise ordered by the Court. Each party shall personally appear at the mediation and participate in the process. In the event a party does not have the authority to enter into a settlement, then a representative of the entity that does have actual authority to enter into a settlement on behalf of the party shall also personally attend the mediations with the party.

The parties shall confer and select a mutually agreeable person to act as mediator in this case. If the parties are unable to agree on a mediator the court will appoint a mediator at the Case Management Conference.

Each party shall pay their respective pro-rata cost of the mediation directly to the mediator.

### **POLICIES/PROCEDURES**

Please refer to the Court's web page [www.16thcircuit.org](http://www.16thcircuit.org) for division policies and procedural information listed by each judge.

**/S/ GEORGE EDGAR WOLF**  
**GEORGE EDGAR WOLF, Circuit Judge**

### **Certificate of Service**

This is to certify that a copy of the foregoing was mailed postage pre-paid or hand delivered to the plaintiff with the delivery of the file-stamped copy of the petition. It is further certified that a copy of the foregoing will be served with the summons on each defendant named in this action.

#### **Attorney for Plaintiff(s):**

KEVIN JOSEPH BERGER, 8025-B WARD PKWY PLZ, KANSAS CITY, MO 64114

JANET ELLEN VOGINI, 8025-B WARD PKWY PLZ, KANSAS CITY, MO 64114

#### **Defendant(s):**

LYFT, INC.

MARK OYLER

Dated: 24-APR-2019

MARY A. MARQUEZ  
Court Administrator



IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: GEORGE EDGAR WOLF	Case Number: 1916-CV11701
Plaintiff/Petitioner: MICHAEL MOORE	Plaintiff's/Petitioner's Attorney/Address JANET ELLEN VOGINI 8025-B WARD PKWY PLZ KANSAS CITY, MO 64114
Defendant/Respondent: LYFT, INC.	Court Address: 415 E 12th KANSAS CITY, MO 64106
Nature of Suit: CC Pers Injury-Vehicular	

(Date File Stamp)

Summons in Civil Case

**The State of Missouri to:** LYFT, INC.  
Alias: *30 CTOR la*  
SRV RA: CT CORPORATION SYSTEM  
120 S. CENTRAL AVE  
CLAYTON, MO 64105

**PRIVATE PROCESS SERVER**

**COURT SEAL OF**  
  
**JACKSON COUNTY**

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

17-MAY-2019  
Date

*[Signature]*  
Clerk

Further Information:

**Sheriff's or Server's Return**

**Note to serving officer:** Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☒ other **CT CORPORATION** **LCW - B. LOVE**  
Served at **St. Louis County** \_\_\_\_\_ (address)  
in \_\_\_\_\_ (County/City of St. Louis), MO, on **MAY 29 2019** (date) at **9 AM** (time).

*Asmare Mander*  
Printed Name of Sheriff or Server

*[Signature]*  
Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

Subscribed and sworn to before me on \_\_\_\_\_ (date)

My commission expires: \_\_\_\_\_ (date)

(Seal) \_\_\_\_\_ Notary Public

**Sheriff's Fees**

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ ( _____ miles @ \$ _____ per mile)
<b>Total</b>	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

19-SMCC-4568

PRIVATE BROOKS BEVELER

LCW - B. LOVE

CT CORPORATION  
St. Louis County

MAY 29 2019

0 A1





IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: GEORGE EDGAR WOLF	Case Number: 1916-CV11701
Plaintiff/Petitioner: MICHAEL MOORE	Plaintiff's/Petitioner's Attorney/Address JANET ELLEN VOGINI 8025-B WARD PKWY PLZ KANSAS CITY, MO 64114
Defendant/Respondent: LYFT, INC.	vs. Court Address: 415 E 12th KANSAS CITY, MO 64106
Nature of Suit: CC Pers Injury-Vehicular	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: MARK OYLER

Alias:

1039 JACKSON DRIVE  
LIBERTY, MO 64068

PRIVATE PROCESS SERVER

COURT SEAL OF



JACKSON COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

17-MAY-2019

Date

*[Signature]*  
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☒ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with Beth Oyer (mother) a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

\_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other

Served at 1039 Jackson Dr Liberty Mo 64068 (address)  
in Clay (County/City of St. Louis), MO, on 6-16-19 (date) at 8:10 pm (time).

Jennifer K Leruyer

JASON M. RAME Printed Name of Sheriff or Server

Jennifer K Leruyer Signature of Sheriff or Server

Notary Public - Notary Seal  
STATE OF MISSOURI

Clay (Seat)

My Commission Expires Sept. 15, 2019  
Commission # 15233772

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on 6-1-19 (date).

My commission expires: 9-15-19 Date

[Signature] Notary Public

Sheriff's Fees

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Sheriff's Deputy Salary  
Supplemental Surcharge \$ 10.00  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.